

ESTTA Tracking number: **ESTTA585245**

Filing date: **02/03/2014**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Petition for Cancellation

Notice is hereby given that the following party requests to cancel indicated registration.

Petitioner Information

Name	Jumpin# Jammerz L.L.C.		
Entity	Limited Liability Company	Citizenship	Arizona
Address	2406 South 24th Street, Unit C120 Phoenix, AZ 85034 UNITED STATES		

Attorney information	Paul I. Perlman Hodgson Russ LLP The Guaranty Building 140 Pearl Street, Suite 100 Buffalo, NY 14202 UNITED STATES pperlman@hodgsonruss.com, djoyce@hodgsonruss.com, ddovi@hodgsonruss.com Phone:716.848.1479
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Registrations Subject to Cancellation

Registration No	1292981	Registration date	09/04/1984
Registrant	KELLWOOD COMPANY 600 KELLWOOD PARKWAY CHESTERFIELD, MO 63017 GERMANY		

Goods/Services Subject to Cancellation

Class 025. First Use: 1982/08/18 First Use In Commerce: 1982/08/18 All goods and services in the class are cancelled, namely: Infant's and Children's Underwear
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Grounds for Cancellation

Genericness	Trademark Act section 23		
Registration No	2549557	Registration date	03/19/2002
Registrant	Gerber Childrenswear LLC 7005 Pelham Road, Suite D Greenville, SC 29615 GERMANY		

Goods/Services Subject to Cancellation

Class 025. First Use: 1982/08/15 First Use In Commerce: 1982/08/15 All goods and services in the class are cancelled, namely: Infant's and children's clothing, namely, infantwear, underwear, bodysuits, underclothes and undergarments

Grounds for Cancellation

Genericness	Trademark Act section 23		
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Registration No	3488401	Registration date	08/19/2008
Registrant	KELLWOOD COMPANY 600 KELLWOOD PARKWAY CHESTERFIELD, MO 63017 GERMANY		

Goods/Services Subject to Cancellation

Class 025. First Use: 2006/04/30 First Use In Commerce: 2006/04/30 All goods and services in the class are cancelled, namely: Infants' and children's clothing, namely, infantwear, underwear, bodysuits, underclothes and undergarments

Grounds for Cancellation

Genericness	Trademark Act section 23		
Registration No	2615158	Registration date	09/03/2002
Registrant	Gerber Childrenswear LLC Greenville, SC 29615 GERMANY		

Goods/Services Subject to Cancellation

Class 025. First Use: 2000/08/00 First Use In Commerce: 2000/08/00 All goods and services in the class are cancelled, namely: Infants' and children's apparel, namely bodysuits, coveralls, creepers, dresses, gowns, infantwear, jumpers, leggings, overalls, pants, rompers, shorts, skirts, sleepwear, tops, underclothes, undergarments, and underwear

Grounds for Cancellation

Genericness	Trademark Act section 23		
Registration No	3825903	Registration date	07/27/2010
Registrant	Gerber Childrenswear LLC 7005 Pelham Road, Suite D Greenville, SC 29615 GERMANY		

Goods/Services Subject to Cancellation

Class 025. First Use: 2010/05/12 First Use In Commerce: 2010/05/12 All goods and services in the class are cancelled, namely: Infant's and children's clothing, namely, infantwear, underwear, bodysuits, underclothes and undergarments

Grounds for Cancellation

Genericness	Trademark Act section 23		
Registration No	2711179	Registration date	04/29/2003
Registrant	Gerber Childrenswear LLC 7005 Pelham Road Greenville, SC 29615 GERMANY		

Goods/Services Subject to Cancellation

Class 025. First Use: 2002/03/00 First Use In Commerce: 2002/03/00 All goods and services in the class are cancelled, namely: Infants' and children's clothing, namely, one-piece underwear, creepers, coveralls, rompers and hats

Grounds for Cancellation

Genericness	Trademark Act section 23
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Related Proceedings	Opposition Number 91214363 for the mark ONESIES (Serial No. 85898887)
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Attachments	Petition to Cancel.pdf(69626 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Daniel F. Dovi/
Name	Daniel F. Dovi
Date	02/03/2014

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Registration Nos. 1,292,981 (issued September 4, 1984); 2,549,557 (issued March 19, 2002); 3,488,401 (issued August 19, 2008); 2,615,158 (issued September 3, 2002); 3,825,903 (issued July 27, 2010); and 2,711,179 (issued April 29, 2003).

JUMPIN' JAMMERZ L.L.C.,

Petitioner

v.

Cancellation No.

GERBER CHILDRENSWEAR, LLC,

Applicant.

PETITION TO CANCEL

Petitioner Jumpin' Jammerz L.L.C. ("Petitioner" or "Jammerz"), an Arizona L.L.C. duly organized and existing under the laws of the State of Arizona and having a regular and established place of business at 2406 South 24th Street, Unit C120, Phoenix, Arizona, 85034, hereby petitions for the cancellation of the trademark ONESIES, Registration Nos. 1,292,981; 2,549,557; and 3,488,401; the trademark ALL IN ONESIES, Reg. No. 2,615,158; the trademark THE ONE AND ONLY ONESIES BRAND, Registration No. 3,825,903; and the trademark FUNSIE ONESIES, Registration No. 2,711,179, all owned by Gerber Childrenswear, LLC, 7005 Pelham Road, Greenville, South Carolina 29615. Petitioner believes it will be damaged if these Registrations remain on the Principal Register.

As grounds for cancellations, it is alleged that:

1. The registrations sought to be cancelled were filed as described in Schedule A, which is incorporated into this Petition to Cancel.

2. Petitioner Jammerz is a limited liability company that has, since 1998, sold onesie footed pajamas for children and adults.

3. Upon information and belief, the term ONESIES – which is a prominent portion of each of the marks sought to be cancelled – is a generic term and therefore cannot serve as a trademark, or be capable of acquiring secondary meaning.

4. The term ONESIES is and has been in widespread use in the clothing field (for toddlers, children, and adults) for many years and has been used by many third-parties and consumers as the generic name for one-piece garments, with or without feet.

5. If the registrations that are the subject of this Petition are allowed to remain registered, Respondent would be in a position to harass and harm Petitioner, and others in the clothing field, by interfering with their ability to use the term ONESIES in connection with their manufacture and sale of one-piece clothing for adults and children, and others' ability to use a commonly used term in the clothing field, to the harm of Petitioner, other manufacturers and sellers, and the public.

6. This Petition is being filed electronically, pursuant to the Board's rules, along with the required filing fee. If there are any additional fees due and owing in connection with this request, please charge the Hodgson Russ LLP Deposit Account No. 082442.

WHEREFORE, Petitioner prays that Registration Nos. 1,292,981; 2,549,557; 3,448,401; 2,615,158; 3,825,903; and 2,711,179 be cancelled and that this cancellation Petition be sustained in favor of Petitioner.

Dated: Buffalo, New York
February 3, 2014

HODGSON RUSS LLP

By: Paul I. Perlman
Paul I. Perlman
Daniel P. Joyce
Daniel F. Dovi
140 Pearl Street, Suite 100
Buffalo, New York 14202-4040
(716) 848-1479

Attorneys for Petitioner

Schedule A

Reg. No	Mark	Filing Date	Int. Class	Goods	Filing Basis; Current Basis	First Use
2,549,557	ONESIES	4/27/2000	25	Infant's and children's clothing, namely, infantwear, underwear, bodysuits, underclothes and undergarments.	IA; IA	8/15/1982
1,292,981	ONESIES (stylized)	12/6/1982	25	Infant's and Children's Underwear.	IA; IA	8/18/1982
3,488,401	ONESIES (stylized)	1/22/2008	25	Infants' and children's clothing, namely, infantwear, underwear, bodysuits, underclothes and undergarments.	IA; IA	4/30/2006
2,615,158	ALL IN ONESIES	10/29/2001	25	Infants' and children's apparel, namely bodysuits, coveralls, creepers, dresses, gowns, infantwear, jumpers, leggings, overalls, pants, rompers, shorts, skirts, sleepwear, tops, underclothes, undergarments, and underwear.	IA; IA	8/00/2000
3,825,903	THE ONE AND ONLY ONESIES BRAND	11/13/2008	25	Infant's and children's clothing, namely, infantwear, underwear, bodysuits, underclothes and undergarments.	IB; IA	5/12/2010
2,711,179	FUNSIE ONESIES	6/3/2002	25	Infants' and children's clothing, namely, one-piece underwear, creepers, coveralls, rompers and hats.	IA; IA	3/00/2002

CERTIFICATE OF SERVICE

I, Paul I. Perlman, hereby certify that a true and correct copy of the foregoing Petition to Cancel was served on February 3, 2014 by first-class mail in a postage prepaid envelope addressed to the following:

1. NEIL C. JONES
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UNITED STATES



Paul I. Perlman

CERTIFICATE OF FILING

I hereby Certify that this Petition to Cancel is being electronically filed with the Trademark Trial and Appeal Board on February 3, 2014.



Paul I. Perlman